

DOCKET NUMBER 22

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CLERK
U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.

5 Attorneys for Alleged Debtor Francis Lopez

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8 **UNITED STATES BANKRUPTCY COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10 **SAN DIEGO DIVISION**

11
12 In Re:

13 FRANCIS J. LOPEZ,
14 Alleged Debtor

CASE NO. 05-05926-PBINV

Involuntary Chapter 7

**ANSWER OF ALLEGED DEBTOR TO
INVOLUNTARY PETITION**

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23 COMES NOW the alleged debtor Francis J. Lopez ("alleged debtor" or "Lopez")
24 and answers the involuntary petition as follows:

25 1. Alleged debtor admits that the matters raised in the petition are a core
26 proceeding pursuant to 28 U.S.C. §157(b)(1) and (b)(2)(4).
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2. Alleged debtor denies that he has been domiciled in this district for the 180 days preceding the filing of the involuntary petition. Alleged debtor admits that a bankruptcy case concerning debtor's affiliate is pending in the district.

3. Alleged debtor denies that his debts are primarily business debts.

4. Alleged debtor has authority to answer the involuntary petition pursuant to Federal Rules of Bankruptcy Procedure Rule 1011(a).

FIRST AFFIRMATIVE DEFENSE

5. Alleged debtor asserts that the court lacks subject matter jurisdiction on the basis that the alleged debtor has more than 12 creditors and the petition was executed and initiated by only one creditor. Pursuant to FRBP Rule 1003(b), a list of all of the alleged debtor's creditors, addresses and a brief statement of the nature of their claims is attached hereto and incorporated by reference as Exhibit A. Alleged debtor reserves the right to supplement, add or amend the information contained in Exhibit A as further information is obtained.

SECOND AFFIRMATIVE DEFENSE

6. Alleged debtor asserts that the court lacks subject matter jurisdiction on the basis that the petitioning creditor is disqualified from bringing an involuntary petition against this alleged debtor because the alleged debt that constitutes the basis of petitioning creditor's claim is subject to a bona fide dispute.

THIRD AFFIRMATIVE DEFENSE

7. Alleged debtor alleges that the petition was filed in bad faith and for the purpose of disrupting on-going litigation between the alleged debtor and the petitioning creditor.

FOURTH AFFIRMATIVE DEFENSE

8. Alleged debtor asserts that the order for relief should not issue because the alleged debtor was, as of the date of the petition, generally paying his debts as they became due, unless those debts were subject to a bona fide dispute.

FIFTH AFFIRMATIVE DEFENSE

9. Alleged debtor asserts that the case should be transferred to Florida which is the proper venue.

PRESERVATION OF CLAIMS

10. Alleged debtor hereby reserves and shall not be deemed by this answer to have waived his rights to a cross claim or other relief pursuant to 11 U.S.C. §303(i)(1) and (2) and all subparts thereto, and as against petitioning creditors and/or those acting in conjunction with or counseling them.

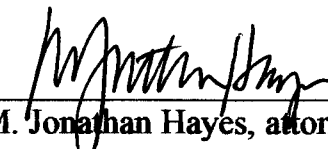
WHEREFORE, alleged debtor prays:

1. That the court decline to enter any order for relief pursuant to 11 U.S.C. §303;
2. That the court dismiss the petition forthwith;
3. That the court thereafter permit the alleged debtor to seek compensation by counterclaim or other appropriate method for the entry of a judgment against petitioning creditor and other appropriate parties, pursuant to 11 U.S.C. §303(i); and
4. Such other relief as the court may deem proper.

Respectfully submitted,

LAW OFFICES OF M. JONATHAN HAYES

Dated: Sept 6, 2005

By: 
M. Jonathan Hayes, attorney for Francis J. Lopez

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Signature by the attorney constitutes a certification under Fed. R. Bankr. P. 9011
that the relief provided by the order is the relief granted by the court.

Submitted by:

By: 
M. Jonathan Hayes
Attorney for Francis J. Lopez

FRANCIS LOPEZ
EXHIBIT A
LIST OF CREDITORS

Progressive Insurance
PO Box 31260
Tampa, FL 33631
Acct. 37287380-4
\$157.20
Insurance, Auto

Coastal Community Insurance
12139 Panama City Beach Pkwy.
Panama City Beach, FL 32407
Policy No. LHQ336763
\$1,013.00
Insurance, Flood (Property)

Quicken Platinum Card
PO Box 44167
Jacksonville, FL 32231
\$848.00
Goods and services, 1998- 2005

Okaloosa Gas District
PO Box 548
Valparaiso, FL 32580
\$45.00
Utilities

Northwest Florida Daily News
200 Racetrack Rd.
Ft. Walton Beach, FL 32549
\$45.00
Newspaper

Kelly Plantation Owners Association
4393 Commons Drive E.
Destin, FL 32541
\$550.00
Homeowner's Association

Allstate Floridian
54 Beal Parkway
Ft. Walton Beach, FL 32548
\$1900.00
Homeowners Insurance

EXHIBIT A

Texaco / Shell
PO Box 9151
Des Moines, IA 50368
Acct. No. 77-917-6550-1
\$290.00
Gasoline and related

Bank Of America
PO Box 1390
Norfolk, VA 23501
Acct. No. 4050860512429141
Credit Card, goods and services
\$2386.00

Verizon Wireless
PO Box 660108
Dallas, TX 75266
Acct. No. 81955380600001
\$45.00
Utility – telephone

Cox Communications
PO Box 60970
New Orleans, LA
Acct. No. 0018710003886502
Utility – television and Internet
\$112.00

Union Bank of California
8155 Mercury Ct.
San Diego, CA 92111
Settlement of Union Bank v. Francis Lopez, \$15,000 original balance
\$4,000.00

Bankcard Services
PO Box 15287
Wilmington, DE 19886
Acct. No. 5490999178488929
\$10,000.00
Goods and services – 2001- 2005

Cingular Wireless
PO Box 8229
Aurora, IL 60572
Acct. No. 0050443578
\$125.00
Utilities – telephone

EXHIBIT A

Wayne Wise
810 Red Tanager Ct.
Nashville, TN 37221
\$15,000.00
Personal Loan

Valley Forge Life Insurance
100 CNA Drive
Nashville, TN 37214
Acct. No. VITU045825
\$0.00 (\$486.00 per year)
Life Insurance

American Home Shield
PO Box 849
Carroll, IA 51401
Acct. No. 58449061
\$128.00
Home appliance insurance

Citi Cards
PO Box 6414
The Lakes, NV 88901
Acct. No. 5424180306665024
\$32,515.00
Goods and Services, 1994 - 2005

Household Bank / HSBC
PO Box 5222
Carol Stream, IL 60197
Acct. No. 5176690006732635
Goods and Services, 2003 - 2005
\$5,000.00

American Express
PO Box 297804
Ft. Lauderdale, FL 33329
Acct. No. 378349802283007
\$22,000.00
Goods and Services, 1994 - 2004

Note: Some of this debt may be owed by Prism and/or Stanly, though I have personal guarantee

Ft. Walton Beach Medical Center
1000 Mar Walt Drive
Ft. Walton Beach, FL 32547
\$1600.00
Medical and Health services
Making payments of \$100.00 month

Alan Stanly
1569 Berkshire Ct.
San Marcos, CA 92069
\$50,000.00
Judgment in Union Bank v. Stanly (cross-complaint by Stanly)
Currently under appeal in CA

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3 **PROOF OF SERVICE**

4 I, MJ Hayes, declare:

5 I am a resident of the State of California and over the age of eighteen years, and not
6 a party to the within action; my business address is 21800 Oxnard St., Suite 840,
7 Woodland Hills, CA 91367. On September 6, 2005, I served the within documents:

8 **ANSWER OF ALLEGED DEBTOR TO INVOLUNTARY PETITION**

9 by transmitting via facsimile the document(s) listed above to the fax
10 number(s) set forth below on this date before 5:00 p.m.

11 *ý* by placing the document(s) listed above in a sealed envelope with postage
12 thereon fully prepaid, in the United States mail at Los Angeles, California
13 addressed as set forth below.

14 *..* by causing personal delivery by _____ of the document(s) listed
15 above to the person(s) at the address(es) set forth below.

16 *..* by placing the document(s) listed above in a sealed _____
17 envelope and affixing a pre-paid air bill, and causing the envelope to be
18 delivered to a _____ agent for delivery

19 *..* by personally delivering the document(s) listed above to the person(s) at the
20 address(es) set forth below.

21 L. Scott Keehn
22 Robbins & Keehn, APC
23 530 B Street, Suite 2400
24 San Diego, CA 92101

25 I am readily familiar with the firm's practice of collection and processing
26 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
27 Service on that same day with postage thereon fully prepaid in the ordinary course of
28 business. I am aware that on motion of the party served, service is presumed invalid if
postal cancellation date or postage meter date is more than one day after date of deposit for
mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at
whose direction the service was made.

Executed on September 6, 2005, at Los Angeles, California.



MJ Hayes